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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Letter dated 13 October 1997 from the Permanent Representative of Iraq to the United Nations addressed to the Secretary-General

On instructions from my Government, I have the honour to transmit to you herewith the official response of the Government of the Republic of Iraq to the report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Iraq submitted to the Commission at its fifty-third session (E/CN.4/1997/57).

I should be grateful if you would have this letter and its annex circulated as a document of the General Assembly under agenda item 112 (c).

(Signed) Nizar HAMDOON
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ANNEX

Response of the Government of Iraq to the report of the Special Rapporteur on the situation of human rights in Iraq (E/CN.4/1997/57)

Introduction

1. The Government of the Republic of Iraq has examined the report of the Special Rapporteur to the Commission on Human Rights at its fifty-third session (E/CN.4/1997/57). Iraq is committed to the promotion of human rights, and it wishes to keep the international community informed of how matters are developing in Iraq and to expose the fabrications and allegations by which van der Stoel seeks to harm the Government and people of Iraq. In doing this, van der Stoel proceeds on the basis of hostile and preconceived attitudes and adopts an approach that seeks to sunder the national unity of Iraq and to incite sectarian and ethnic rivalries. He thus departs from the principles of impartiality, objectivity and fairness affirmed by the General Assembly, most recently in its resolution 51/105. In the seventh preambular paragraph of that resolution, the Assembly affirms the importance of the objectivity, independence and discretion of special rapporteurs on specific countries; and, in paragraph 5, it reaffirms that the promotion of all human rights should be guided by the principles of non-selectivity, impartiality and objectivity and should not be used for political ends. Taking account of the unusual circumstances in Iraq created by the military aggression against it, the maintenance of a comprehensive embargo that has entered its eighth year and the adverse effects the embargo has had on the promotion and improvement of the human rights situation in general, we present hereunder a response to the allegations made in the report. It has constantly been our practice to submit detailed responses providing numerous clarifications and the true facts, such as those contained in documents A/46/647, A/C.3/47/2, A/48/387, A/49/394, A/48/875, E/CN.4/1995/100, A/50/471, E/CN.4/1996/114 and E/CN.4/1996/119.

2. Close study of this report would reveal to any fair-minded reader that it is no more than an ill-considered and hasty restatement and re-compilation of the same allegations and claims van der Stoel has repeatedly made in all his previous reports. These reports also provide a clear example of his failure to evolve objective criteria for judging the credibility and trustworthiness of the information he obtains and to which he then gives currency. It is perhaps for this reason that his reports are characterized by such a great deal of confusion, given that they rely on hearsay information from hostile sources and not only lack value as data but are also unacceptable by the most elementary international legal standards.

3. In paragraph 5 of his report, van der Stoel seeks to remind Iraq of its freely undertaken obligations, claiming that there are no special circumstances that prevent Iraq from honouring its international undertakings. The Government of Iraq has always endeavoured to discharge its obligations under the international instruments and conventions mentioned. It has done so despite the exceptional circumstances, well known to the international community, that Iraq is experiencing because of the maintenance of the comprehensive embargo imposed

on it in August 1990 and because of the brutal military aggression of January 1991 that created highly abnormal conditions in all spheres of civilian life and for all groups of the population. Indeed, despite the difficulty and complexities of the present situation, Iraq is continuing to submit its country reports and to discuss them in the human rights treaty bodies, and this gives concrete expression to Iraq's firm desire to cooperate with the relevant United Nations bodies in this domain. Van der Stoel seeks to ignore the impact on Iraq of the maintenance of the economic embargo, while this is a fact whose tragic effects he has himself acknowledged. This robs his report of the objectivity, independence and discretion that special rapporteurs on human rights must have.

I. VIOLATIONS OF CIVIL AND POLITICAL RIGHTS

4. In this section, van der Stoel not only reiterates the accusations and allegations made in his previous reports but goes further and oversteps the bounds of his mandate in an attempt to disparage Iraq's national system, thus placing himself at the service of those hostile to Iraq in implementing their schemes for the fragmentation of its people and the sundering of its national unity.

5. In paragraphs 7 and 8 of his report, van der Stoel proceeds to ignore the democratic measures instituted by Iraq in 1995 and 1996, namely the amendment of the Iraqi Constitution to make the presidency subject to approval by a national referendum. The referendum then took place on 15 October 1995 in the presence of correspondents from Arab and non-Arab news agencies and journalists and parliamentarians from all the countries of the world who witnessed its fairness and its democratic nature. Elections to the National Assembly and to the local councils are also held in accordance with the law at the prescribed intervals, and implementation of the decrees and laws required by the exceptional circumstances in Iraq, as explained in document E/CN.4/1996/119, has been annulled or suspended.

6. His characterization of the nature of the political system in Iraq and his allegation that no opposition is allowed are incompatible with reality and groundless. It appears that van der Stoel has made no meticulous examination of the provisions of the Iraqi Constitution and of the laws in force that govern the democratic process and enable the Iraqi people to exercise its right freely to choose its representatives and its political system. There is, in this connection, a political organization known by the name of the "National Front of National Patriotic-Progressive Parties", and it comprises a number of parties and eminent Arab and Kurdish political personalities in Iraq that play an active and public role in political life in the country. There are also professional and cultural associations and trade unions. The Political Parties Law (30/1991) established the principle of a multi-party system. The Iraqi Constitution also stipulates that "The people are the source of authority and its legitimacy", and the powers of the President of the Republic are set forth in articles 57 and 58 of the Constitution. There is also the Council of Ministers, the exercise of whose functions is subject to the terms of the Constitution and the law. Its functions include the preparation of draft laws and their referral to the legislative authority concerned, the issuance of administrative regulations and decrees in accordance with the law, and the preparation of the plan and the

general budget of the State. Above all, the Iraqi Constitution governs the role of the people in exercising its political rights through the National Assembly, which represents the people in all its political, social and economic sectors and comprises representatives freely and directly elected by general secret ballot every four years. The Assembly considers draft laws, participates in enacting them, discusses the general domestic and external policy of the State, summons members of the Council of Ministers for questioning or to propose their dismissal, and exercises monitoring and consultative powers.

7. Van der Stoel's statement in paragraph 8 of his report that there is official corruption and that the population is subject to the arbitrary interests of a privileged class is untrue, is a perversion of the image of Iraqi society and is yet more evidence of failure to transmit a true picture of developments in the situation in Iraq. He is in a better position than others to know that the harsh conditions imposed on Iraq by a devastating embargo that has entered its eighth year would have destroyed the country's social structure had it not been for the dedicated commitment of the Government of Iraq to protecting the cohesion of the Iraqi people and safeguarding social and moral values and social solidarity.

8. We should like to point out in this connection that there are matters that are more basic, that have a greater impact on people's lives and that deserve to receive greater attention from the United Nations and bodies such as that for which van der Stoel is supposed to be acting. They include the question of international sanctions and the impact they may have on human rights anywhere in the world, including Iraq. Measures such as these have many adverse consequences for societies, including corruption and crime. In the case of Iraq, these are a result of the comprehensive embargo being maintained against the country, and the Government of Iraq is endeavouring to apply the laws in force meticulously with a view to limiting the impact of crimes threatening society.

9. Van der Stoel begins his section on the right to life, liberty and personal security by reiterating in paragraphs 9, 10 and 11 his allegations concerning the situation in the northern region, once again entangling himself in blatant fabrication. In his previous report (A/51/496 and Add.1), quoting what he calls the opposition, he provided an account of the execution of 96 officers of the Iraqi Army who were based in northern Iraq. In his current report, however, he states that they were Pesh Merga elements. This confirms that the sources on which he relies are mendacious and biased. The major Kurdish groups that participated with the Iraqi forces in their limited operations in August 1996 have affirmed that no such executions ever took place and have also told foreign news media that there was no activity by the Iraqi security services in northern Iraq.

10. In connection with the executions of persons in the city of Dohuk reported in paragraph 11 of the report, it must be said that the city in its entirety lies outside the area controlled by the central authorities and that the Government of Iraq therefore has no connection whatever with any incidents that may occur there. Our question here concerns the reasons that motivate van der Stoel to disseminate reports that he himself admits are unconfirmed and to put them into circulation and leak them to the press. This confirms our view

that his allegations lack the least degree of credibility and merely have the goal of defaming Iraq without good cause.

11. In paragraph 13 of the report, concerning the attempt to assassinate the President's son, Udayy Saddam Hussein, on 12 December 1996, van der Stoel seeks to ignore the fact that this was a terrorist act deserving of condemnation and indeed uses it as a pretext to level accusations at the Government of Iraq. Using his familiar approach of exaggeration and embellishment, he claims that the Government of Iraq executed and arrested thousands of people without judicial orders. This allegation is groundless and is incompatible with the most elementary rules of sound logic. Van der Stoel provides no material, tangible evidence on which to base his claims.

12. The allegations made in paragraphs 14 and 15 concerning the situation in southern Iraq were thoroughly refuted in all of the previous responses submitted by the Government of Iraq. It appears that the Special Rapporteur is seeking to prove them merely by dint of repetition. The situation in southern Iraq is stable and calm, and his assertion that the very presence of military and security forces constitutes a violation of human rights is a matter for surprise. This is a natural situation, and any State has the right to protect its security and stability by deploying its military and security services inside its territorial boundaries. The allegation that there have been campaigns of arrest and seizure and intermittent fighting in the area is groundless, and these are fabrications that exist only in the imagination of the Special Rapporteur. It is astonishing that, in his reports, van der Stoel should deny the Government of Iraq its legitimate right to maintain a presence inside its own territorial boundaries in the northern and southern regions of the country and that he should consider its doing so to be a violation of human rights. At the same time, however, he chooses to disregard the entry of foreign forces from neighbouring States into Iraqi territory and to ignore the consequences of that in terms of the killing of civilian, including women and children, the destruction of property and the flagrant violation of the sovereignty and independence of the State. This is further evidence of van der Stoel's failure to adopt a fair and objective approach in carrying out his task.

13. One of van der Stoel's sophistries is the statement in paragraph 16 of the report concerning "cruel punishments". He knows full well that the use of such punishments was discontinued under Revolution Command Council Decree No. 81 of 1996, as he himself established in his previous report. His reversion to this allegation is further evidence of his lack of objectivity and credibility and of the fact that he is continuing to stack the cards in order to misrepresent the facts.

14. In connection with paragraphs 17 and 18, concerning disappearances, we should like to refer to the response of the Government of Iraq contained in the annex to document A/49/394. The Iran-Iraq war of 1980 to 1988 and the 30-Power military aggression of 1991, with all the material and human disasters they brought with them, made it difficult to know with any precision everything about the residents of areas that became a theatre of military operations or of nearby areas such as border zones. The inhabitants of such places take refuge wherever they believe it to be safe or are forced to leave by hostile armed elements.

15. In paragraph 19 of his report, van der Stoel refers to the issue of the missing Kuwaitis, giving conflicting and inaccurate information with a view to influencing the working procedures of the relevant international agencies. In the first place, the issue is outside the scope of the mandate entrusted to him under the terms of the resolution by which he was appointed; and, in the second place, its inclusion under the rubric of "the situation of human rights in Iraq" is a major mistake and is out of place. As is well known, the issue is being addressed through the International Committee of the Red Cross (ICRC) as part of the joint activities of the Tripartite Commission on the search for missing persons. In addition to Iraq and ICRC, its membership also includes Kuwait, Saudi Arabia, the United States and the United Kingdom. The Government of Iraq has been making serious efforts to resolve this humanitarian issue to the extent that this is possible. Iraq continues to attend the periodic meetings of the Tripartite Commission, the most recent of which was in September 1997. As part of Iraq's endeavour to advance the search for missing Kuwaitis, the Iraqi delegation made a number of proposals at the meeting of the Tripartite Commission held in Geneva on 12 June 1996. They concerned Iraq's intention to circulate the names and photographs of missing Kuwaitis and others on wall posters to be affixed at specified sites in a number of Iraq's governorates, to publish their photographs in newspapers and to seek information on them from citizens. Iraq also expressed its readiness to enter into negotiations with ICRC with a view to concluding an appropriate agreement for ICRC to visit places of detention in Iraq so as to help complete the task entrusted to the Tripartite Commission. ICRC welcomed this. Iraq has announced that it stands ready to act in accordance with international norms and with the principles elaborated in the context of the work of the Tripartite Commission, and it has remained open to all the initiatives put forward by States and organizations that are not members of the Commission with a view to finding a speedy and definitive solution to this humanitarian issue. Iraq has approved four initiatives submitted to it by the League of Arab States. Under their terms, it has received three envoys from the League since 1991. It agreed to two other initiatives. One was undertaken by King Hassan II of Morocco, and under it Iraq declared its readiness to form a joint committee on the search for missing persons. A second initiative came from Qatar, and under it Iraq expressed its readiness to receive a delegation representing the governments of the Gulf States together with two Kuwaiti parliamentarians. The Kuwaiti side, however, rejected these initiatives.

16. At another level, Iraq responded positively to the relevant initiative of the President of the Russian Federation and accordingly received a Russian delegation. However, the Kuwaitis rejected this initiative also. Iraq also agreed to the initiative put forward by President Suharto of Indonesia acting in his capacity as Chairman of the Movement of Non-Aligned Countries, but the Kuwaiti regime rejected this initiative too. The most recent initiative on the matter to be rejected by the Kuwaiti regime was that announced by the delegation of Iraq at the ninety-third Inter-Parliamentary Conference, held in Madrid at the end of 1995, in which Iraq expressed its readiness to receive a committee formed by the President of the Inter-Parliamentary Union that would have complete freedom to conduct an investigation in Iraq and establish the facts of the matter. Although Kuwait rejected this, the Inter-Parliamentary Council approved the Iraqi initiative.

17. At the series of meetings of the Tripartite Commission held in Geneva on 12 June 1996 the Iraqi delegation revived the previous proposals made by Iraq concerning participation by the League of Arab States in bringing the facts of the matter to light. It presented a proposal in which it expressed Iraq's readiness to receive a committee in which representatives of ICRC, the League of Arab States and countries such as Morocco, Algeria and Egypt would join representatives of Iraq, Saudi Arabia and Kuwait in ascertaining the true state of affairs with respect to the allegations that there are still Kuwaiti prisoners or captives in Iraq. However, the Iraqi authorities elicited no reaction on the matter from their Kuwaiti or Saudi Arabian counterparts. From the foregoing, it can be seen that Iraq has demonstrated its good faith more extensively than van der Stoel is prepared to admit in paragraph 24 of his report. Iraq is more anxious than he is that this humanitarian issue should be resolved and that its international obligations should be discharged. Van der Stoel, however, acting with malice aforethought, is impelled to deny the sincere efforts made by Iraq in this regard, which are well known to ICRC.

18. In paragraphs 25 to 30 of the report, van der Stoel makes a series of allegations and claims for which there is no evidence and which are incompatible with the real situation. There is in Iraq, as stated in paragraph 6 above, a National Front of Iraqi parties that also comprises eminent political, social and cultural personalities who contribute to Iraqi political life. There is also the Council of Ministers, and the National Assembly represents all classes of the Iraqi people.

19. Furthermore, President Saddam Hussein enjoys great popular support that has found concrete expression on numerous occasions and most recently in the national referendum on the presidency held on 15 October 1995. The result of the referendum was that 99.96 per cent of the people's votes supported the election of President Saddam Hussein to the office, and this was witnessed by the observers, journalists and parliamentarians who were in attendance.

20. We feel it is necessary to call attention to the tone adopted by van der Stoel in his report, which violates the most elementary rules of diplomatic courtesy when referring to Iraq's national leadership. This shows his ill will in deliberately offering offence to the symbols of national authority in Iraq.

21. When he claims that "the ... creative sides of ... society have been suffocated" and that "cultural ... and literary endeavour has been vanquished", this reveals that he is distorting the facts and that he lacks fairness and objectivity. He does not call things by their true names. The suffocation of the creative sides of society that he alleges is one of the objectives of the comprehensive economic embargo that has been maintained against the people of Iraq since 1990 and that has extended to all aspects of life, including cultural aspects. This has consequently inhibited creative capacities and has had an adverse impact on cultural, artistic and literary endeavours. Despite these difficulties, the Government of Iraq is nevertheless committed to promoting and strengthening cultural, artistic and scientific activities in Iraq by providing sponsorship. It encourages the establishment of scientific institutions, houses of culture, scientific advisory councils and cultural and literary forums and associations and the holding of international poetry, artistic and literary

festivals in which a large number of cultural and literary personalities participate.

22. In paragraph 26 of his report van der Stoel states that four Iraqis were sentenced to death for what he calls "media crimes". This is a pure fabrication and a figment of van der Stoel's imagination. These are mere allegations for which no probative evidence is adduced, such as names, addresses and the verdicts rendered. This paragraph also reiterates the statement made in previous reports concerning the Iraqi Press Act. This illustrates van der Stoel's hostile attitude to Iraq, since the Government of Iraq has already provided a detailed explanation of the nature of this law in the response it submitted to the Commission on Human Rights at its fifty-third session.

23. Paragraph 27 contains an attempt to intrude a personal conviction of van der Stoel's and to postulate it as a matter of fact while it actually lacks the most elementary characteristics of sound and logical thinking and is indeed incompatible with what van der Stoel himself maintains in paragraph 26 of this same report. That there are "a number of young minds" that believe in the ideas of the Baath Party and in the leadership would confirm that this leadership is accepted and these ideas find fertile ground and take root among young people in such a way as to motivate them to participate in the domains of journalism and culture. The responsible approach adopted by the Iraqi press does not permit attacks on persons but endeavours to analyze and criticize improper practices in State institutions, particularly those directly connected with the lives of citizens.

24. Then, in paragraph 28 of the report, van der Stoel speaks of the Law on Publications, which is really the same subject as that addressed by the Law No. 206 of 1986 mentioned in paragraph 26. This illustrates the confusion, disarray and lack of precision that characterize his reports. It is a shame that this should emanate from a Special Rapporteur who is supposed to have capacities that would qualify him for an international assignment such as this. He is of the view that prohibiting anything that may damage relations with Arab countries, the supervision of foreign publications and the requirement for journalists to obtain permission to pursue their profession constitute an instrument for the suppression of opinion and expression. This is contrary to the most elementary logic. Any country has the right to forbid the publication of anything that harms its relations with other countries. Furthermore, the supervision of foreign publications is customary in most countries of the world, and they do not allow the circulation of foreign and domestic publications that are not in keeping with the prevailing religious and moral values in their society. They also do this in order to ensure that the press is a means of serving society and not of destroying it. There is nothing blameworthy in that, and it does not detract from those countries in any way. In connection with his reference to the need for journalists to obtain permission to pursue their profession, it must be said that there is no one in the world who pursues a profession of some kind who does not obtain a license to do so.

25. In connection with van der Stoel's remark in paragraph 29 that Iraqi law includes provisions against espionage, we have to ask him to tell us of one State in the world whose laws and enactments do not include penalties for

persons who commit the crimes of espionage and high treason or of working on behalf of another State.

26. The allegations made in paragraph 30 of the report that journalists and writers are subjected to harassment and that some have fled Iraq are absolutely untrue. While some have gone abroad, this is because of the difficult economic circumstances resulting from the economic embargo that is being maintained against Iraq and that van der Stoel deliberately seeks to ignore. These have, moreover, left their country in a normal manner.

27. In paragraph 30 of the report, van der Stoel also claims that Iraqi writers and journalists in Jordan are subjected to harassment. This is something that has absolutely never happened, and the allegation is groundless.

II. THE RIGHT TO FOOD AND HEALTH CARE

28. Although in paragraphs 32 and 33 of his report van der Stoel notes the alarming situation of most of the population in Iraq resulting from the maintenance of the economic embargo, and although he welcomes the signing of the memorandum of understanding between the Government of Iraq and the United Nations on the implementation of the food-for-oil resolution, he does not trouble himself to seek the reasons for the delay in giving effect to the memorandum of understanding or to identify those creating obstacles to its smooth implementation. His assessment of this situation, one that affects the lives of the millions of Iraqis who have been deprived of food and medicine and are still awaiting the benefits of the memorandum of understanding, lacks objectivity in that it does not establish the responsibility of those impeding its implementation, principally the United States of America and the United Kingdom. If van der Stoel is to claim credibility and impartiality for himself, then he must identify the parties responsible for the failure of the memorandum of understanding to achieve the desired results. The glaring examples of the obstacles created by these countries include their rejection of a contract for the purchase of 100 ambulances requested by the Ministry of Health in order to meet the needs of Iraqi hospitals and strengthen an emergency medical system that is suffering from great shortages. Hundreds of patients are dying because it is not possible get them to hospital in time. The latest statistics indicate that only 25 per cent of Ministry of Health contracts had been implemented as of September 1997 and that 21 contracts had been blocked and 77 others placed on hold as of 9 September 1997. The Government of the Republic of Iraq encloses herewith a copy of a letter dated 23 August 1997 from the Minister for Foreign Affairs of Iraq addressed to the Chairman of the Security Council Committee established pursuant to resolution 661 (1990) (appendix I) and a copy of a letter dated 4 September 1997 from the same Minister addressed to the Secretary-General of the United Nations (appendix II). In these letters, the Minister explains the difficulties encountered in the first phase of implementation of resolution 986 (1995) and the delays that have beset the process of approving contracts submitted by Iraq, and he calls for pressure to be brought to bear on the representatives of the United States of America and the United Kingdom to release the contracts placed on hold as a means of achieving the humanitarian objectives of the memorandum of understanding.

III. CONCLUDING OBSERVATIONS

From a perusal of van der Stoel's report, the following can easily be noted:

(a) The report contains nothing that is new or that supplements the statements and allegations made by the Special Rapporteur in all his previous reports. This indicates in a manner that leaves no room for doubt that he is endeavouring to achieve political objectives rather than to serve the worthy cause of human rights.

(b) In obtaining his information, van der Stoel uses sources that are known for their hostility to Iraq and that have the goal of harming it. He himself admits, moreover, that what he obtains are claims, unconfirmed reports and unattributed statements, and this deprives his reports of trustworthiness given that they are based on hearsay evidence that lacks proof.

(c) Van der Stoel's persistence in holding the political leadership of Iraq responsible, as he claims, for alleged violations of human rights is to be regarded as open interference in the internal affairs of Iraq and a transparent attempt to disparage the legitimate national political system. This constitutes a violation of the right of the Iraqi people to self-determination and to non-interference in the country's internal affairs.

(d) In the matter of the missing Kuwaitis, the Government of Iraq is cooperating actively by making sincere efforts in the Tripartite Commission and by proposing and accepting initiatives. This question is in any case outside the scope of the Special Rapporteur's mandate.

(e) Iraq is anxious to cooperate with the United Nations in implementing the memorandum of understanding under resolution 986 (1995) so as to mitigate the suffering of its people and safeguard its sovereignty and territorial integrity. It is also anxious to resolve any technical problems encountered in the process so as to eliminate the obstacles created by the United States and the United Kingdom to the flexible implementation of the memorandum of understanding. The humanitarian objectives of the memorandum of understanding may thus be achieved.

APPENDIX I

Letter dated 23 August 1997 from the Minister for Foreign Affairs of Iraq addressed to the Chairman of the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait

After the signature on 4 August 1997 by the Secretary-General of the United Nations of the procurement and distribution plan for the second phase of implementation of the memorandum of understanding based on Security Council resolutions 986 (1995) and 1111 (1997), I consider it appropriate to take up with you the state of implementation of the first phase. Extreme difficulties have been experienced in gaining approval of contracts, as the Secretary-General noted in his report to the Security Council of 2 June 1997 (S/1997/419).

Although more than two and a half months have elapsed since the first period for the implementation of the procurement and distribution plan expired, the secretariat of the 661 Committee still has more than 60 contracts that it has yet to prepare for circulation to Committee members. You will recall that at the meeting I had with you when I was in New York last March I raised the issue of the delay in the circulation and approval of contracts. On the same occasion, I put forward a number of practical and technical suggestions with a view to expediting the completion of the study of contracts and their circulation to members of the Committee. However, the measures taken by the Committee have been insufficient, and have not brought about the necessary acceleration in the execution of contracts. There is still a considerable delay before contracts referred to the secretariat of the Committee are circulated to its members.

We request that the Security Council Committee established by resolution 661 (1990) should take the measures necessary to ensure that the preparation and circulation of contracts to the members of the Committee are expedited. This is particularly important since we have in fact begun to sign contracts for the purchase of foodstuffs, medical supplies and other basic requirements for the second phase of the implementation of the memorandum of understanding. The fact that procurement contracts submitted to the secretariat of the 661 Committee during the first phase have been subject to this delay will have a negative effect on the progress of second-phase contracts, and will complicate not only the work of the Committee and its secretariat, but also the plans for the distribution of foodstuffs, medical supplies and other basic requirements, which have been undertaken by the relevant Iraqi government departments in accordance with the new distribution plan signed by the Secretary-General of the United Nations.

As Chairman of the 661 Committee, you are undoubtedly directly acquainted with the difficulties and obstacles that still continue to be raised by two members of that Committee, namely the United States and the United Kingdom, to the proper implementation of the provisions of the memorandum of understanding by placing blocks or holds on contracts for the purchase of food, medicines and other basic requirements. In doing so, these two countries adduce flimsy pretexts that are entirely at variance with the provisions of the memorandum of

understanding and the humanitarian purposes declared in the above-mentioned Security Council resolutions. A hold has now been placed on more than 100 contracts, while 20 have been blocked.

I enclose a schedule of the contracts on which a hold has been placed, arranged by country, showing the companies that have submitted applications to supply Iraq with food, medicines and other basic requirements in accordance with the procurement and distribution plan for the previous phase.

I request you to raise this issue with the representatives of the United States and the United Kingdom, and urge them to lift the holds and blocks they have placed on contracts, so that these countries or their companies may continue to provide Iraq with humanitarian supplies in accordance with the provisions of the memorandum of understanding and Security Council resolutions 986 (1995) and 1111 (1997). Otherwise, it is not possible to interpret the obstinacy of the representatives of the United States and the United Kingdom as anything other than political action directed against the countries and companies concluding contracts with Iraq, particularly since those two countries persist in using Security Council resolution 986 (1995) for narrow political purposes that are incompatible with the humanitarian aims of that resolution.

We hope that the secretariat of the Committee will accelerate submission of the contracts registered with it, and that the 661 Committee will deal with them as quickly as possible, as well as with the contracts on which holds and blocks have been placed and those that have been submitted by the relevant Iraqi parties as replacements for blocked contracts. The continuation of the current methods of work of the Committee constitutes a deliberate delay in the arrival of humanitarian supplies to Iraq.

We suggest that the 661 Committee should conduct an objective, professional and administrative review of the manner in which the previous phase of the procurement and distribution plan has been implemented, with a view to eliminating all the negative aspects and procedures that led to the delay and dilatoriness by which it was characterized, and which all but emptied Security Council resolution 986 (1995) and the memorandum of understanding of their content and turned them into something to be exploited for political purposes that bear no relation to any humanitarian objective.

(Signed) Mohammed Said AL-SAHAF
Minister for Foreign Affairs
of the Republic of Iraq

APPENDIX II

Letter dated 4 September 1997 from the Minister for Foreign Affairs of Iraq addressed to the Secretary-General*

I have the honour to refer to my letter dated 8 August 1997 (S/1997/629), in which I described in detail developments during the first period for the implementation of the procurement and distribution plan. Since that date, there has been little change in the situation. The secretariat of the Committee established by resolution 661 (1990) still has before it 57 contract applications which it has not yet processed for circulation to members of the Committee, even though they were registered a long time ago. Those applications are in addition to the 83 applications already on hold - placed on hold for flimsy reasons at the request of the representatives of the United States of America and the United Kingdom of Great Britain and Northern Ireland. They are also in addition to the 21 applications which the two aforementioned States got the Committee to cancel.

We have undertaken consultations with the Secretariat concerning your draft report to the Security Council under resolution 1111 (1997) concerning the first 90 days of the second period, and we continue to encounter the same difficulties and obstacles regarding the approval of contract applications as during the first period, together with delays in the delivery of humanitarian items to Iraq. Delivery of such items was the declared objective of Security Council resolution 986 (1995). Three months have already elapsed since the end of implementation of the first period, meaning that three months ago Iraq had pumped the full amount of petroleum indicated on 31 May 1997. Despite the many appeals and letters to you, neither the United Nations Secretariat nor the Committee established by resolution 661 (1990) nor its secretariat has shown any readiness to try to respond to our legitimate requests to expedite the contract application procedure and urge the representatives of the United States and the United Kingdom to lift the hold on procurement contracts for food, medicines and other basic humanitarian requirements.

I raise these questions with you, for you are the depositary of the memorandum of understanding and are directly responsible for proper implementation of its provisions. The memorandum was signed by the Secretariat. Iraq is fulfilling all its obligations under its provisions and is cooperating with your representatives in Baghdad to implement them in a transparent and professional manner. The Secretariat, too, must assume its corresponding responsibilities and expose to all the members of the Committee established by resolution 661 (1990) in general, and to the representatives of the United States and the United Kingdom in particular, the consequences of the delay in delivering humanitarian items, as described in your draft report which we have discussed. The continuation of this situation and the negative attitude and obstructionism are incomprehensible and highly regrettable. We can only reaffirm that compensation and levies based on petroleum revenues have now become the objective of resolution 986 (1995), for we do not see any attention

* Originally issued as S/1997/690, annex.

being paid on the humanitarian level to the delivery of items to Iraq, which was the purpose of the aforementioned resolution.

In Security Council circles, there have recently been communications and talk about the so-called mismanagement of the second period. The truth is that we have respected the provisions of the two relevant resolutions and of the memorandum of understanding as they relate to the beginning of the pumping of petroleum, in accordance with the schedule observed during the first period. The provisions of resolutions 986 (1995) and 1111 (1997) and of the memorandum of understanding, taken as a whole, stipulate that the volume of petroleum pumped will be such that the corresponding revenue will amount to $2 billion for the six-month period. The delivery of food, medicines and other supplies for essential civilian needs during the same period would correspond to that amount. Since that is what happened during the first period, the pumping of Iraqi petroleum began after the approval by the Secretary-General of the procurement and distribution plan, which is an essential element in the implementation of the memorandum of understanding. The pumping of petroleum during the first six-month period began in earnest, and began during the scheduled time-frame, despite the problems caused by the contract application procedure within the context of the procurement and distribution plan of the Committee established by resolution 661 (1990).

You will remember that you approved the procurement and distribution plan on 4 August 1997, and that marked the beginning of the pumping of petroleum for the second period. That is a natural and logical operation that will last six months as from that date. During the period referred to in the resolution and the memorandum of understanding, we look forward to an approval mechanism for contract applications submitted by companies and States entering into contracts with the relevant Iraqi parties, as well as to the import into Iraq of items covered by contracts during that period, and the removal of the obstacles encountered during the first period.

The interpretation which the United States and the United Kingdom are seeking to impose is purely formalistic and is based on the lack of linkage between resolution 986 (1995) and the memorandum of understanding on the one hand, and paragraph 1 of resolution 1111 (1997) on the other. The interpretation is neither correct nor realistic. It would mean that Iraq would have to pump the full amount of the petroleum authorized by the resolution in four months. As for the import of food, medicines and other items, the period would begin without any limits being fixed by the Security Council or the Committee established by resolution 661 (1990), the objective, according to the United States interpretation, being to apply the six-month condition to the export of Iraqi petroleum, but not to the import of humanitarian articles into Iraq. Iraq cannot accept that sinister interpretation, for the sale of petroleum for the purchase of food represents a deal whose two components are interdependent and complementary. It is inconceivable that one component could come into play while the other is blocked.

I hope that you understand Iraq's position on this question, and I ask you to intervene personally to bring the facts before the members of the Security Council so as to promote the objective of Security Council resolution 986 (1995) and the memorandum of understanding. I also hope that you will take the

necessary measures to encourage the secretariat of the Committee established by resolution 661 (1990) to circulate to its members all the procurement contracts registered with the Committee, and that you will exert pressure on the representatives of the United States and the United Kingdom to lift the hold placed on contract applications. Otherwise, we very much doubt that it will be possible to realize the humanitarian objectives of the memorandum of understanding.

I should be grateful if you would have this letter circulated as a Security Council document.

(Signed) Mohammed Said AL-SAHAF
Minister for Foreign Affairs of
the Republic of Iraq